



GALLATIN COUNTY

Zoning Variance Information

Variances may be granted when, because of exceptional circumstances affecting the applicant's property, a strict application of the zoning regulation would result in an undue hardship. Variances will not be granted to confer special privileges inconsistent with limitations placed upon other property, nor to allow uses that the zoning regulation does not permit. Variances must meet each of the criteria listed in the attached Zoning Variance Evaluation Criteria sheet.

PROCESS

- **Applicant consults applicable zoning regulation.** A Planner is on call in the County Planning Department 8:00 a.m. to 5:00 p.m. The Planning Department is open during the lunch hour.
- **Applicant submits required materials** to County Planning Department, to include:
 - ❑ **Variance Application Form**, completed and signed.
 - ❑ **Description of proposed variance.**
 - ❑ **Zoning Variance Evaluation Criteria.** Submit a written explanation demonstrating that the proposed variance meets each of the applicable Zoning Variance Evaluation Criteria discussed on the attached handout.
 - ❑ **Site plan.** Submit a site plan, drawn to scale, adequate and legible, showing the location and dimensions of all existing and proposed structures and signs, property lines, watercourses, easements, streets, alleys, driveways, off-street parking spaces, and landscaping. If topography is an issue in the variance request, also show contours. Depending on the request, floor and elevation plans may also be required in order to provide a full description of the project.
 - ❑ **Certified list of adjacent property owners.** Submit a certified list of the names and addresses of each of the property owners adjacent to the affected site(s). "Adjacent" property owners include owners of parcels across public roads, streets, alleys, watercourses and other public ways, and the Montana Department of Transportation

if the site is adjacent to a state highway. In Bridger Canyon, include all property owners within 300 feet.

- ❑ **Mailing labels.** Submit three sets of self-adhesive 1"x 5/8" address labels (Avery Label #5160) for each adjacent property owner.
- ❑ **Payment for certified mailing to adjacent property owners.**
- ❑ **Application fee.** Refer to the County Planning Department for current fee schedule.

After the Planning Department has scheduled the public hearing(s) and finalized the notice of the variance request, at least 10 days before the public hearing(s) you must pick up the finalized notice and complete the following additional application step:

- ❑ **Certified statement of posting.** Post copies of the notice on-site and in at least one other conspicuous affected location, then submit a certified statement to the Planning Department confirming that such notices have been appropriately posted. Within one week after the hearing(s), you must remove the posted notices.
- The County Planning Department determines whether the application packet is complete.
 - The County Planning Department distributes copies of the application packet to appropriate departments and agencies for review and comment.
 - The County Planning Department schedules public hearing.
 - The community is informed of the proposed variance and is encouraged to submit written comments or to testify at a public hearing. This public notice is provided at least 10 days before the public hearing, and is accomplished as follows:
 - At the applicant's expense, the County Planning Department sends notice (by certified mail) to the owners of property adjacent to the site.
 - The County Planning Department publishes notice in appropriate newspaper(s).
 - The applicant posts notices and submits a certified statement verifying that such posting has been completed.
 - The County Planning Department analyzes the application materials and any comments received from other departments and agencies. The County Planning Department prepares a staff report that evaluates the proposal, which is submitted to the hearing body at the public hearing. The applicant or applicant's representative must be present at the hearing to answer questions raised by the hearing body or public.

For “201” districts*

- The hearing and decision-making body varies depending on the type of variance sought, as determined by the County Planning Department.
- For most variances, the Board of Adjustment holds a public hearing at which it considers the staff report, applicant and public comments. The Board of Adjustment votes on whether to approve or deny the variance.
- For certain variances, the County Commission holds a public hearing at which it considers the staff report, applicant and public comments. The County Commission votes on whether to approve or deny the variance.
- The County Commission or Board of Adjustment may attach conditions to its approval. Violations of such conditions will be considered violations of the zoning regulation.

For “101” districts*

- The Planning and Zoning Commission and the County Commission hold a joint public hearing at which they consider the staff report, applicant and public comments. The Planning and Zoning Commission develops a recommendation which is forwarded to the County Commission.
- In a regular public meeting, the County Commission considers the Planning and Zoning Commission’s recommendation. The County Commission votes on whether to approve or deny the variance.
- The Planning and Zoning Commission and County Commission may attach conditions to their recommendations and approval. Violations of such conditions will be considered violations of the zoning regulation.

* State statutes (76-2-101 and 76-2-201 MCA) allow for two different types of zoning districts, each with different standards for the processing of variance requests. Middle Cottonwood and “the donut” are Gallatin County’s only “201” districts; all other non-municipal zoning districts in Gallatin County are “101” districts.

- Decisions on variances may be appealed to the court of record within 30 days of being made.

F:\PLNG\FORMS\Forms 2004\Forms 2005\variance info.feb2005.doc